



Luann G. Welmer, Clerk-Treasurer

**CITY COUNCIL MEETING
CITY HALL
TUESDAY, APRIL 16, 2013
6:00 O'CLOCK P.M.**

I. Meeting Called to Order

- A. Opening Prayer
- B. Pledge of Allegiance
- C. Roll Call
- D. Acceptance of Minutes

II. Unfinished Business Requiring Council Action

- A. First Reading of an Ordinance entitled "ORDINANCE NO._____, 2013, AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF COLUMBUS, INDIANA, AMENDING CHAPTER 9 OF THE COLUMBUS CITY CODE TO ADD SECTION 9.34, ETHICS ORDINANCE." Kelly Benjamin.
- B. Second Reading of an Ordinance entitled "ORDINANCE NO._____, 2013, AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF COLUMBUS, INDIANA, REZONING THE SUBJECT PROPERTY FROM "RS3" (RESIDENTIAL: SINGLE-FAMILY) TO "RT" (RESIDENTIAL: TWO-FAMILY)." (Joel Spoon Rezoning) Jeff Bergman.

III. New Business Requiring Council Action

- A. None

IV. Other Business

- A. Standing Committee and Liaison Reports
- B. Discussion Items:

1.) Airport Staffing – Brian Payne

- C. Next regular meeting is scheduled for **Tuesday, May 7, 2013 at 6:00 o'clock P.M. in City Hall.**

- D. Adjournment.

FIRST READING: _____

SECOND READING: _____

CITY OF COLUMBUS ORDINANCE NO. _____ 2013

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF COLUMBUS, INDIANA,
AMENDING CHAPTER 9 OF THE COLUMBUS CITY CODE
TO ADD SECTION 9.34, ETHICS ORDINANCE**

WHEREAS, Indiana Code 36-1-3 et. seq. confers upon units of government within the State of Indiana such powers as necessary or desirable to conduct the affairs of local government; and

WHEREAS, Indiana Code 36-4-6-18 authorizes the Common Council of the City of Columbus, Indiana to pass such ordinances, orders, resolutions and motions as may be necessary and proper for the governmental unit to fulfill and satisfy the responsibilities and duties of said governmental unit; and

WHEREAS, the Common Council desires to promote confidence in city business regarding the official conduct of officials, councillors, appointees, and employees of city government; and

WHEREAS, it is the desire of the Common Council to provide clear and high ethical standards regarding city business, so that it is transparent and conducive to the public good.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF COLUMBUS, INDIANA, AS FOLLOWS:

SECTION I. Chapter 9, Article 34 of the Columbus City Code, Ethic Ordinance, is hereby adopted to read as follows:

**CHAPTER 9.34
ETHICS ORDINANCE**

ARTICLE I. GENERAL PROVISIONS

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9.34.020 Definitions.

ARTICLE II. STANDARDS OF ETHICAL CONDUCT

9.34.030. Gifts; favors; service, entertainment; travel expenses; waivers.
9.34.040 Honoraria.
9.34.050 Political activity and patronage.
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9.34.070 Additional or excel compensation.
9.34.080 Nepotism.
9.34.090 Conflicts of interest; discussion, decisions, and voting.
9.34.100 Conflicts of interest; contracts.
9.34.110 Benefiting from or divulging confidential information.
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DIVISON 2. City Ethics Commission

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9.34.310	Complaint process—filing and review by Ethics Commission Attorney.
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9.34.330	Decision of the Ethics Commission.
9.34.340	Agreed settlements.
9.34.350	Report of action taken by department head or director of an agency.
9.34.360	Unlawful interference with Ethics Commission activities.
9.34.370	Disclosure requirements – public records.
9.34.380	Same – public meetings.

ARTICLE IV. VIOLATIONS AND ENFORCEMENT

9.34.400	Voluntary remedial actions.
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9.34.430	Miscellaneous provisions.

Sec. 9.34.010 Name and purpose.

- a. This chapter shall be referred to as the "Ethics Ordinance."
- b. The purpose of this chapter is to set clear and high ethical standards for the official conduct of officials, councillors, appointees, and employees of city government and persons who have a business relationship with city government so that the public will have confidence that the conduct of city business is always conducive to the public good. Citizens, businesses and visitors alike look to government to be a model example of an ethical organization.
- c. The City's officials, councillors, appointees and employees shall perform their duties for the benefit of the citizens of the city. They shall conduct the government of the City with loyalty, integrity and impartiality, without the appearance or perception of allowing prejudice, favoritism or the opportunity for personal gain to influence their decisions or actions or to interfere with serving the public interest.
- d. Public confidence in the integrity of government is essential to the exercise of good government. Accordingly, those persons under the jurisdiction of the Ethics Commission should be committed to the following goals:
 1. Duties should be carried out impartially;
 2. Decisions and policy should not be made outside of proper channels of city government;
 3. Public office should not be used for private gain; and
 4. Actions, transactions, or involvements should not be performed or engaged in which have the potential to, or the appearance of, becoming a conflict of interest.
- e. This chapter is not meant to unduly restrict or limit the behavior of the officials, councillors, appointees, or employees during the time when they are not on duty. Each official, councillor, appointee, or employee retains lawful rights and privileges as a private citizen to interests of a personal or private financial nature. These rights and privileges will be honored to the extent that they are compatible with an individual's elected office as an official or councillor, an appointed position, or employment.

Sec. 9.34.020. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them in this section.

Agency means an authority, board, commission, committee, office of the mayor, city common council, city clerk-treasurer, department, office, service, or other entity, by whatever name designated, exercising a portion of the executive, administrative, or legislative power of the city.

Appointee(s) includes, other than an official, councillor or employee:

- (1) members of all City commissions, committees, and boards established by state statute or local ordinance, policy or motion, who can make binding recommendations and are appointed by the Mayor or the Common Council, and
- (2) individuals who are appointed to an agency, a municipal corporation, a department, or a governmental entity in the City whose budget is subject to the review of the City Common Council;

Assist or assistance means to help, aid, advise, or furnish information to a person, and includes an offer to assist.

Business relationship means dealings with an agency by a person who personally, or as an employee of a person, has or benefits from:

- (1) A financial interest in a contract with, or purchase by, an agency; or
- (2) A license or permit requiring the exercise of judgment or discretion by the agency.

Such dealings with an agency do not include Tax Abatements considered under I.C. 6-1.1-12.1, *et. seq.*.

Candidate for elected office means a **candidate** for the office of mayor, office of clerk-treasurer and city common council.

City means the City of Columbus, Bartholomew County, Indiana.

Compensation means any money, thing of value, forgiveness, or financial benefit conferred on, or received by, any person in return for services rendered, or for services to be rendered, whether by that person or another.

Councillor(s) includes the elected Common Council Members.

Department Head means a city employee who is the head of a city department and reports directly to the Mayor or to a board or commission in which the Mayor and/or the Columbus Common Council has appointive powers by a majority of its members.

Dependent means a child, step-child, or adoptee of an individual who is unemancipated and less than 18 years old, or an individual more than one-half (1/2) of whose support is provided during a year by the individual.

Direct line of supervision means an official or employee who is in a position to affect the terms and conditions of another individual's employment, including making decisions about work assignments, compensation, grievances, advancements, or performance evaluations. The term does not include the responsibilities of the Mayor or councillors to make decisions regarding salary ordinances, budgets or personnel policies of the agencies.

Employee(s) includes an individual, other than an official, councillor, or appointee, who is employed by a City agency on a full-time or part-time basis, or under any other employment category defined within the Employee Personnel Booklet and/or Personnel Policies.

Entertainment means the free admission or token of admission to a sporting contest, concert, theatrical production, convocation, parade, convention, festival, or other similar show or presentation that is intended for the enjoyment or diversion of members of the public upon paid admission.

Ethics Commission refers to the city ethics commission created under Article III - Division 3.

Fair market value means the price that would be paid by a willing buyer to a willing seller in a good faith transaction in which objectively adequate consideration is provided and neither party is compelled to enter.

Family Member means any person related as a spouse, grandparent, step-grandparent, parent, step-parent, father-in-law, mother-in-law, child, step-child, adopted child, son-in-law, daughter-in-law, grandchild, step-grandchild, brother, sister, step-brother, step-sister, brother or sister by half-blood, uncle, aunt, niece, nephew or first cousin.

Financial interest means an interest which will result in an ascertainable increase or decrease in the income or net worth of any individual or a member of that individual's immediate family, but does not include an interest:

- (1) Of an individual in the common stock of a corporation unless the combined holdings in the corporation of an individual, that individual's spouse, and that individual's dependent are more than five percent (5%) of the outstanding shares of the common stock of the corporation; or
- (2) Held as an asset in a blind trust.

Immediate family means an individual's spouse or dependent.

Gift means that which is accepted by an individual or by another on the individual's behalf, or that which is paid or given to another for or on behalf of an individual, directly, indirectly, or in trust for the individual's benefit or by any other means, for which equal or greater consideration is not given by the individual.

Among other things, a GIFT may be:

- (1) real property;
- (2) the use of real property;
- (3) tangible or intangible personal property;
- (4) the use of tangible or intangible personal property;
- (5) a preferential rate or terms on a debt, loan, goods, or services (which rate is below the customary rate and is not either a government rate available to all other similar situated government employees or public officials or a rate which is available to similarly situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin);
- (6) forgiveness of indebtedness;
- (7) lodging or parking, food or beverage;
- (8) membership dues;
- (9) registration fees other than those subject to 9.34.030(b)(14);
- (10) tickets to events, performance or facilities;
- (11) services provided by persons pursuant to a professional license or certificate;
- (12) other personal services for which a fee is normally charged by the person providing the services;
- (13) any other similar service or thing having an attributable value not already provided for in this section.

GIFT does not include:

- (1) Salary, benefits, services, fees, commissions, gifts or expenses associated primarily with an individual's employment or business, or provided to the individual by the City or by an international governmental agency as a customary gift in the normal course of business, to the extent that such gift is not inconsistent with applicable Indiana statutes;
- (2) An award, plaque, certificate, or similar personalized item given in recognition of the individual's public, civic, charitable, or professional service;
- (3) An honorary membership in a service or fraternal organization presented merely as a courtesy by such organization;
- (4) The use of a public facility or public property, made available by a governmental agency, for a public purpose;
- (5) An honorarium described under Section 9.34.040;
- (6) An expense related to an honorarium event paid to an individual or an individual's spouse or guest;
- (7) Transportation provided by a person, agency, entity or business in relation to officially approved governmental business.

Information of a confidential nature means information obtained by reason of the position or office held, and which:

- (1) A public agency is prohibited from disclosing under IC 5-14-3-4(a);
- (2) A public agency has the discretion not to disclose under IC 5-14-3-4(b) and that the agency has not disclosed.

Official(s) includes the elected Mayor and elected Clerk-Treasurer of the City.

Person means an individual or firm, proprietorship, partnership, unincorporated association, trust, business trust, group, limited liability company, or corporation, whether or not operated for profit, or a governmental entity other than the City of Columbus and its agencies.

Political activity means taking action to support an individual in his or her campaign for elected office, or soliciting contributions for a political party or another candidate for any elected public office.

Relative means any person related as a spouse, parent, step-parent, child, step-child, adopted child, son-in-law, daughter-in-law, brother, sister, step-brother, step-sister, brother or sister by half-blood, uncle, aunt, niece, or nephew.

Represent means to attend an agency proceeding, write a letter, or communicate with an official, councillor, appointee, or employee on behalf of a person.

Sanctions mean any of the following actions:

- (1) Canceling a contract, or barring a person from entering into a contract with an agency for a certain period of time;
- (2) Making restitution or disgorgement;
- (3) Revocation or suspension of a license, registration, or permit issued by an agency or barring a person from obtaining such a license, registration, or permit for a certain period of time;
- (4) Censure of an official, councillor or appointee;
- (5) Disciplinary action.

Travel expenses mean the costs of transportation, lodging, and meals. The term includes actual travel expenses or an amount approximating those expenses that would be allowed by travel policies and procedures of the City.

ARTICLE II. STANDARDS OF ETHICAL CONDUCT

Sec. 9.34.030. Gifts; favors; service, entertainment; travel expenses; waivers.

- a. An official, councillor, appointee or employee, or the immediate family thereof, shall not knowingly solicit, accept, or receive a gift, favor, entertainment, or travel expense, from a person who has a business relationship with the official's, councillor's, appointee's or employee's agency or is seeking to influence an action by the official, councillor, appointee or employee in his or her official capacity.
- b. The prohibition in subsection (a) does not apply to:
 1. Any gift, favor, entertainment, or travel expense from a person and that person's employer, that has a value of fifty dollars (\$100) or less on any one occasion and that has a cumulative value of two hundred and fifty dollars (\$250) or less, in any year between May 1 and April 30;
 2. Gifts, favors, entertainment, or travel expenses to members of the immediate family of an official, councillor, appointee or employee that the official, councillor, appointee or employee may benefit from so long as the gifts or other items of value are provided in the normal course of the immediate family member's employment or volunteer work and the purpose of which is not to influence action or inaction by the appointee or employee;

3. Any gift, favor, entertainment or travel expense from the employer of an official's, councillor's, appointee's or employee's spouse, not offered in the normal course of business and directed primarily at the spouse, but including the official, councillor, appointee or employee as a guest, that have a cumulative value of five hundred dollars or less (\$500) in any year between May 1 and April 30;
 4. Gifts, favors, entertainment, or travel expenses from relatives, or a person with whom the individual has an ongoing social relationship that existed before the official, councillor, appointee or employee was elected, appointed or employed by the City and/or agency, so long as the gifts or other items of value are paid for personally by the giver, rather than a business or political entity, and not deducted as a business expense;
 5. Gifts, favors, entertainment or travel expenses from public agencies or public institutions; however, such gifts, favors, entertainment or travel expenses shall be utilized for the benefit of the city, and not solely for the benefit of one's self or relatives;
 6. Food or beverage consumed at a public meeting to which at least six (6) individuals are invited; a meeting will be considered public if:
 - A. The event is a reception or other gathering that is not arranged to solicit government procurement of goods or services from anyone who holds a public office at the federal, state, or local level;
 - B. The official, councillor, appointee or employee is giving a speech or participating in a presentation in his or her official capacity; or
 - C. The meeting has a formal educational program that the official, councillor, appointee or employee is attending to assist him or her in performing official duties;
 7. Food, beverage, entertainment, parking, lodging, or registration fees accepted in furtherance of activities to benefit the city related to an economic development effort, including job growth or retention, an area needing redevelopment, and securing convention and visitor business, approved in advance by the mayor.
 8. Mementos or souvenirs;
 9. Political contributions subject to I.C. 3-9-2 that are reported in accordance with the law;
 10. Discount and other promotional programs made generally available and approved in advance by the city operations and finance director or the city attorney;
 11. Property accepted as a gift to the city and logged by the Clerk-Treasurer;
 12. Donations to an IRS, Section 501(c)(3) Organization, set up through a city agency;
 13. Any item of value for which face value or reasonable fair market value is promptly paid;
 14. Registration fees for a local community charitable fundraiser event;
 15. Solicitation for a charitable or non-profit agency;
 16. Reasonable and customary gifts directed to and/or shared with an agency in celebration of a Holiday (i.e. cookies, fruit, flowers, etc...).
- c. The Ethics Commission may waive application of subsection (a) of this rule in individual cases when consistent with the public interest. The waiver shall be in writing and include:
1. The name of the official, councillor, appointee or employee;
 2. The nature and estimated value of that which is being provided;
 3. The name of any person who paid a portion of that which is being provided; and

4. An explanation of why acceptance is consistent with the public interest.

Sec. 9.34.040. Honoraria.

- a. As used in this section, *honorarium* means a payment of money for an appearance, a speech or an article, but does not include payment or reimbursement of travel expenses.
- b. An official, councillor, appointee, or employee shall not personally accept an honorarium for any activity that may be considered part of his or her official duties; however, an official, councillor, appointee, or employee may accept an honorarium on behalf of the city. The official, councillor, appointee, or employee accepting the honorarium shall within twenty-one (21) days of receipt remit to the city clerk-treasurer any amount received.
- c. An official, councillor, appointee, or employee may personally accept an honorarium for activities not done in connection with his or her official duties and that are prepared on his or her own time; however, no official, appointee, or employee may accept an honorarium from a person who has a business relationship with an official, appointee, or employee of that individual's agency without prior consent from the Ethics Commission, and with a cap of seven hundred and fifty dollars (\$750) in any year between May 1 and April 30.

Sec. 9.34.050. Political activity and patronage.

- a. An appointee or employee shall not engage in political activity during their scheduled city work time, or with city resources.
- b. No official, councillor, appointee, or employee may request or compel political activity by a person under threat or promise of official action or inaction. No official, councillor, appointee, or employee may promise an appointment or employment as a reward for any political activity.
- c. A department head or director of an agency, appointees, and employees with final purchasing authority shall not solicit political contributions from persons with a business relationship with his or her agency on behalf of any candidate for elected office, unless that individual is a candidate for elected office himself or herself, and in that case, not during their scheduled city work time.
- d. It shall not be a violation of this section specifically or this chapter generally for any official, councillor, appointee, or employee:
 1. To encourage another official, councillor, appointee, or employee to work the polls in an official position; however, no appointee's appointment or employee's performance assessment or employment may be affected by an appointee's or employee's decision to work the polls; or
 2. To work the polls in an official position on city time as approved by his or her department head or director.

Sec. 9.34.060. Employment restrictions.

- a. An official, appointee, or employee shall not knowingly:
 1. Accept outside employment involving compensation of substantial value if the responsibilities of that employment:
 - A. Are inherently incompatible with the responsibilities of his or her position; or
 - B. Require the individual's recusal from matters so central or critical to the performance of the individual's official duties that the individual's ability to perform those duties would be substantially impaired;
- or
2. Accept outside employment or engage in business or professional activity that would require the individual to disclose confidential information that was gained in the course of city employment.

- b. An advisory opinion from the Ethics Commission that grants approval of outside employment is conclusive proof that an individual is not in violation of subsection (a)(1) or (a)(2).

Sec. 9.34.070. Additional or excess compensation.

An official, councillor, appointee, or employee may not solicit or receive compensation:

- a. For the sale or lease of any property or service to a person with a business relationship with the councillor or an official's, appointee's, or employee's agency that substantially exceeds that which the councillor, official, appointee, or employee would charge in the ordinary course of business; or
- b. For the performance of official duties other than as provided by law.

Sec. 9.34.080. Nepotism

- a. Starting July 2, 2012, individuals who are family members may not be employed by an agency in a position that results in one (1) family member being in the direct line of supervision of the other family member.
- b. This section shall not apply to the following:
 - 1. An individual employed by an agency on or before July 1, 2012 unless the individual has a break in employment with the agency and their reemployment began after July 1, 2012. A list of all City employees employed on July 1, 2012 is attached hereto and incorporated herein as **Attachment A**. A break in employment does not include:
 - A. An employee that is absent from the workplace while on paid or unpaid leave, including vacation, sick, or family medical leave, or worker's compensation.
 - B. An individual's employment with an agency that is terminated followed by immediate reemployment by the agency, without loss of payroll time.
 - 2. An employee of an agency who is employed prior to the date a relative begins serving a term as an official, councillor or appointee, and results in the employee being in the direct line of supervision of the official, councillor or appointee. Said employee may continue his/her employment or hold his/her rank. However, said employee may then not:
 - A. Be promoted to a new position; or
 - B. Be promoted to a position that is not within the merit ranks of the Columbus Police Department or Columbus Fire Department;

If the new position would place the employee in the direct line of supervision of a relative.

- c. All officials and councilors shall annually certify in writing, by December 31 of each year, compliance with the City's Nepotism Policy.

Sec. 9.34.090. Conflicts of interest; discussion, decisions, and voting.

- a. At a meeting held in accordance with IC 5-14-1.5, an official or councillor shall not participate in any decision or vote, and an appointee or employee shall not participate in any discussion, decision, or vote, if he or she has knowledge that any of the following has a financial interest in the outcome of the decision or vote:
 - 1. The official, councillor, appointee, or employee;
 - 2. A member of the immediate family of the official, councillor, appointee, or employee;
 - 3. A business organization in which the official, councillor, appointee, or employee is serving as an officer, a director, a trustee, a partner, employee, or subcontractor; or

4. Any person with whom the official, councillor, employee, or appointee is negotiating or has an arrangement concerning prospective employment.
- b. An official, councillor, appointee, or employee who identifies a potential conflict of interest under this article shall recuse himself or herself from further action on the matter, and may seek an advisory opinion from the Ethics Commission by filing a written description detailing the nature and circumstances of the matter and making full disclosure of any related financial interest in the matter.
- c. When an advisory opinion is sought under this section, the Ethics Commission or its designee shall:
 1. Implement all necessary procedures to screen the official, councillor, appointee, or employee seeking an advisory opinion from involvement in the matter; or
 2. Make a written determination whether the interest is so substantial that the Ethics Commission considers it likely to affect the integrity of the services that the city expects from the official, councillor, appointee, or employee.
- d. A written determination under subsection (c)(2) shall be filed with the office of the city attorney, and constitutes conclusive proof whether the potential conflict of interest is a violation of this chapter.

Sec. 9.34.100. Conflicts of interest; contracts.

- a. Subject to subsection (b), an official or councillor, appointee, or employee; or a member of an official's, councillor's, appointee's, or employee's immediate family; or a relative of an official or councillor, may not knowingly have a financial interest in a contract made by that official's, councillor's, appointee's, or employee's agency.
- b. The prohibition in subsection (a) does not apply to:
 1. An official, councillor, appointee, or employee who does not participate in or have official responsibility for any of the activities of the contracting agency, if:
 - A. The contract is made after public notice or, where applicable, through competitive bidding or any other requirements under I.C. 5-22 or I.C. 36-1-21;
 - B. The agency makes a certified statement that the contract amount or purchase price was the lowest amount or price bid or offered, or makes a certified statement of the reasons why the vendor or contractor was selected, as required by I.C. 36-1-21 *et. seq.*, Contracting with a Unit;
 - C. The official, councillor, appointee, or employee files with the Ethics Commission and office of the city attorney a Uniform Conflict of Interest Disclosure Statement (State form 54266 (R/ 6-12 / Form 236) or its amended form, as required by I.C. 35-44.1-1-4 *et. seq.* and I.C. 36-1-21, *et. seq.*, making full disclosure of all related financial interests in the contract;
 - D. The contract can be performed without compromising the performance of the official duties and responsibilities of the official, councillor, appointee, or employee; and
 - E. In the case of a contract for professional services, the department head or director of the contracting agency makes and files a written certification with the Ethics Commission and office of the city attorney that no other official, councillor, appointee, or employee of that agency is available to perform those services as part of his or her regular duties;

or

2. An official, councillor, appointee, or employee who, acting in good faith, learns of an actual or prospective violation of the prohibition in subsection (a), provided that, not later than thirty (30) days after learning of the actual or prospective violation, the official, councillor, appointee, or employee makes a full written disclosure of any financial interests to the contracting agency, the Ethics Commission and the office of the city attorney, and terminates the financial interest.
- c. All officials, councillors, and appointees shall complete a Uniform Conflict of Interest Disclosure Statement (State form 54266 (R/ 6-12 / Form 236) or its amended form, on an annual basis no later than January 31, and submit said form to the city attorney and Ethics Commission. Employees shall submit them on an as needed basis.
- d. All officials and councilors shall annually certify in writing, by December 31 of each year, compliance with contract disclosure as required pursuant to Indiana Code 36-1-21-6.
- e. This section does not affect the initial term of a contract in existence at the time the term of office of an official or councillor begins.

Sec. 9.34.110. Benefiting from or divulging confidential information.

- a. An official, councillor, appointee, employee, former official, former councillor, former appointee, or former employee shall not materially benefit from information of a confidential nature except as permitted by law.
- b. An official, councillor, appointee, or employee shall not divulge information of a confidential nature except as permitted by law.

Sec. 9.34.120. Use of city property.

An official, councillor, appointee, or employee shall not use city property or personnel for any purpose other than for official city business or as allowed under the city's de minimis personal use policy; however, nothing in this Ethics Ordinance shall prohibit the use of take home vehicles for the Columbus Police Department officers and Columbus Fire Department officials or other city employees as provided by approved policy.

Sec. 9.34.130. Complicity with another's violation.

It shall be a violation of this chapter knowingly to induce, encourage, or aid, either directly or indirectly, anyone to violate any provision of this article.

Sec. 9.34.140. Complaints filed in bad faith.

It shall be a violation of this chapter to file in bad faith a complaint with the Ethics Commission against another person.

ARTICLE III. REVIEW OF ETHICAL CONDUCT

DIVISION 1. GENERAL PROVISIONS

Sec. 9.34.170. Agency policies.

An agency may adopt more specific ethics policies tailored to the needs and practices of that agency, provided that the policies do not conflict with, and are at least as strict as, this chapter. All such policies shall be subject to the review and approval of the city attorney where they shall be filed if approved.

Sec. 9.34.180. Training requirements.

- a. All officials, councilors, appointees, employees, and Ethics Commission members shall be properly trained in the ethics ordinance as described in this chapter. Such training shall also

include a review of criminal offenses against public administration (IC 35-44-1), the Access to Public Records Act (IC 5-14-1.5) and the Open Door Law (IC 5-14-3).

- b. The office of the city attorney and/or designees from the Ethics Commission shall prepare and administer the training required by this section with the assistance of the human resources division. Each agency's department head or director shall:
 - 1. Require all new appointees and employees to participate in ethics training within twelve (12) weeks of the appointee's appointment date and the employee's starting employment with the agency; and
 - 2. Require all appointees and employees to participate in ethics training at least every two (2) years during appointee's and employee's tenure with the agency.
- c. Each official, councillor, and appointee not covered under (b) shall participate in ethics training within twelve (12) weeks of starting their position.
- d. Each Ethics Commission member shall participate in ethics training within (12) weeks of accepting the appointment, and may not officially take the seat on the Commission until the member has completed the training.
- e. The office of the city attorney and/or the City Clerk-Treasurer's office shall maintain documentation to demonstrate appointee's and employee's compliance with subdivisions (1) and (2) of subsection (b) of this section and official's and councillor's compliance with subdivision (c) of this section.
- f. At no time shall a lack of participation in training be a defense to a violation of this Ordinance.

Sec. 9.34.190. Advisory opinions.

- a. An advisory opinion from the Ethics Commission may be requested by:
 - 1. An official, councillor, appointee, employee, or former official, councillor, appointee or employee; or
 - 2. A person with a business relationship with an agency.
- b. Requests for an advisory opinion shall be in writing, signed by the person making the request, and designated an "Inquiry." The Inquiry shall state the official status of the person making the request and all material facts necessary for the Ethics Commission or its designee to understand the circumstances and render a complete advisory opinion. The Inquiry, if requested by someone under subsection (a)(1) or (a)(2), must relate specifically to that person.
- c. All advisory opinions shall be issued in writing, designated as an *Official Advisory Opinion*, signed by the Ethics Commission members or its designee, and shall be conditioned upon the following:
 - 1. The facts and circumstances as they actually exist; and
 - 2. All of the relevant facts and circumstances related to the advisory opinion have been disclosed.
- d. Any individual directly affected by the advisory opinion may seek written clarification of the advisory opinion from the Ethics Commission or its designee. Any such request for clarification shall be made in writing to the Ethics Commission.
- e. Any individual directly affected by the advisory opinion may appeal to the Ethics Commission for reconsideration of the advisory opinion. Any such appeal shall be made in writing.
- f. If an individual who has requested an advisory opinion has been advised that certain action or inaction will lead to a violation of this chapter and has failed to comply after having been given a reasonable opportunity to do so, the Ethics Commission may review the matter to determine compliance with the advisory opinion and, in executive session, vote to initiate an investigation.

- g. An individual who relies on an advisory opinion is not subject to sanctions with respect to that subject matter.
- h. The Ethics Commission on at least a quarterly basis may publish for distribution on the city website, the accumulated advisory opinions with the names, and other information deemed necessary to protect the identities of persons, removed in a format explaining the facts, the question, and the opinion. However, these opinions constitute advisory or deliberative material that are expressions of opinion used for decision-making, and are therefore not subject to mandatory disclosure under I.C. 5-14-3-4(6).

DIVISION 2. CITY ETHICS COMMISSION

Sec. 9.34.250. Establishment and purpose.

There hereby is established the City Ethics Commission. The purpose of the Ethics Commission is promptly to resolve matters within its jurisdiction and to provide certainty in the event of perceived ambiguity of this chapter. The Ethics Commission shall, at all times, approach matters before it with judicial temperament and it shall always act in accordance with the purposes of this chapter as stated in Section 9.34.010.

Sec. 9.34.260. Established, Appointment, terms, and qualifications of members.

- a. The Ethics Commission has jurisdiction over current and former officials, current and former councillors, current and former appointees, and current and former employees for acts or omissions during their elected term, appointment or employment. The Ethics Commission shall be composed of five (5) members who must be residents of the City.
- b. At no time may a member be:
 - 1. An official, councillor, appointee, or employee;
 - 2. A declared candidate for elected office for a City or Bartholomew County position or seat;
 - 3. An elected or appointed person in a governmental Bartholomew County position;
 - 4. An officer or employee of any political party; however, this shall not include an individual who is elected or appointed to serve as a delegate to a party convention; or
 - 5. A person with a business relationship, or whose employer has a business relationship, with an agency or a person who intends to have a business relationship with an agency.
- c. Appointments to the Ethics Commission shall be made as follows:
 - 1. The President of IUPUC shall appoint one member for an initial term of one year.
 - 2. The Board of Directors of the Columbus United Way shall appoint one initial member for a term of two years.
 - 3. The Board of Directors of the Columbus Chamber of Commerce shall appoint an initial member for a term of one year.
 - 4. The Chief Executive Officer of the largest for-profit employer in the City shall appoint one initial member for a period of two years.
 - 5. The four appointees shall designate a fifth member who shall serve an initial term of one year. The fifth member shall not be an employee from IUPUC, United Way, Columbus Chamber of Commerce or the largest for-profit employer in the city.
- d. Each appointment shall be made for a term starting on January 1 and ending on December 31st of the year the term is over; however, each member shall serve until his or her successor is duly appointed and qualified. A member appointed to fill a vacancy shall serve for the duration of the unexpired term.
- e. The initial terms of the five (5) members of the Ethics Commission shall be staggered, as follows: The IUPUC, Chamber of Commerce and designated fifth member appointment terms shall end on December 31, 2014; the United Way and largest for-profit employer appointment terms shall end on December 31, 2015.

- f. Thereafter, all appointing bodies shall make appointments for a period of two years. No individual shall serve for a period of more than three consecutive two year terms.
- g. Not more than three (3) of the five (5) members may be affiliated with the same political party.
- h. A member may be removed only upon the two-thirds majority vote of the city council.
- i. The Mayor shall appoint an attorney, approved by Common Council, to serve as legal counsel for the Ethics Commission. Legal counsel for the Ethics Commission shall advise, investigate for, assist and counsel the Ethics Commission as necessary, but he or she is not a member of the Ethics Commission.
- j. Members of the Ethics Commission shall serve without compensation.
- k. Board Expenses: All Board expenses shall be borne by the budget of the Common Council and shall not exceed \$1,000 per year unless specially approved in advance by the Common Council.

Sec. 9.34.270. Officers; quorum; meetings.

- a. At the first January meeting of every year, the Ethics Commission shall annually elect a Chairperson (who cannot succeed himself/herself in that position), a Vice Chairperson and a Secretary from amongst the current Commission members.
- b. A quorum for the conduct of official action by the Ethics Commission shall be three (3) members.
- c. The Ethics Commission shall meet at the call of the chairperson or of three (3) members of the Ethics Commission, but shall meet, at a minimum, on a quarterly basis. Meetings of the Ethics Commission shall be held in accordance with IC 5-14-1.5 and as further provided in this chapter.

Sec. 9.34.080. Jurisdiction.

- a. The Ethics Commission has jurisdiction over officials, councillors, appointees, employees, persons with a business relationship with any agency, and individuals filing complaints before the Ethics Commission with respect to suspected violations of Article II and Article III, of this ordinance.
- b. The Ethics Commission does not have jurisdiction over the following:
 - 1. Complaints filed more than two (2) years after the date of the suspected violation;
 - 2. Suspected violations of agency policies not addressed within the Ethics Ordinance; or
 - 3. An alleged violation occurring outside the scope of, or having no relation to, an official, councillor, appointee, or employee's employment with the city. . .
- c. A complaint or investigation before the Ethics Commission may be stayed if the matter is subject to pending litigation or notice by law enforcement that a criminal investigation is underway, or if there is a separate disciplinary proceeding pending.

Sec. 9.34.290. Powers.

- a. The Ethics Commission, or its designee, may:
 - 1. Consider complaints filed with the Ethics Commission;
 - 2. Issue Advisory Opinions;
 - 3. Consider an appeal or reconsideration of an advisory opinion;

4. Issue subpoenas for witnesses and documents, or empower the city attorney's office to subpoena witnesses and documents;
 5. Order discovery to aid in investigations and hearings under this Chapter;
 6. Review, and provide future direction on, any gift waiver, post-employment waiver, or advisory opinion; and
 7. Review any Uniform Conflict of Interest Disclosure Statement, Disclosure of Relative's Contract with Municipality, or Certification regarding compliance with Nepotism Policy filed by officials, councillors, appointees, employees, and former officials, councillors, appointees, and employees; and
 8. Adopt, amend and rescind rules and regulations to effectuate the purposes of this Chapter and to specify procedures deemed necessary for the orderly and equitable disposition of complaints and opinions as provided under section 9.34.300.
- b. The city attorney's office shall provide counsel to the ethics commission as deemed appropriate by the ethics commission.

Sec. 9.34.300. Adopting, Amending and Rescinding Rules and Regulations

The Ethics Commission, after the holding of a public hearing and receiving comment on the proposed rules regarding the process and procedures to carry out the Ethics Ordinance, may adopt, amend or rescind uniform rules of procedure to implement Chapter 9.34. The rules and regulations of the Ethics Commission shall be available to the public and copies of said rules and regulations of the Ethics Commission shall be on file in the Clerk-Treasurer's office.

Sec. 9.34.310. Complaint process—filing and review by Ethics Commission Attorney.

- a. Any individual may file a complaint. The complaint shall be in writing and signed by the complainant. The complaint shall state the nature of the alleged violation, the date, time and place of each occurrence, and name of the individual charged with the violation, referred to as the respondent.
- b. Complaints shall be filed with the Ethics Commission attorney, who shall promptly provide a copy to any persons against whom a violation is alleged. Said person/respondent shall have the option to respond in writing if he/she so chooses.
- c. Within thirty (30) days after receipt of a complaint, the Ethics Commission attorney shall conduct a preliminary investigation. The Ethics Commission attorney may request that the Ethics Commission extend the time for the completion of such preliminary investigation. If the Ethics Commission determines that such extension is necessary or desirable and would not be prejudicial to the person against whom a violation is alleged, the Ethics Commission shall grant the extension. If the Ethics Commission determines that the preliminary investigation must be completed in less than thirty (30) days in order to avoid prejudice or irreparable harm to the person against whom a violation is alleged, the Ethics Commission shall order the Ethics Commission attorney to complete the preliminary investigation in a shorter period of time, and the Ethics Commission attorney shall comply.
- d. If the Ethics Commission attorney determines that the complaint alleges violations of criminal acts, the Ethics Commission attorney shall promptly refer the complaint to an appropriate law enforcement agency and the matter may be stayed pending direction from the law enforcement agency.
- e. If the Ethics Commission attorney determines that the complaint alleges violations which subject the person to disciplinary action by an agency, the attorney will notify the department head or director of the person's agency and may stay the ethics investigation pending completion of a

disciplinary proceeding.

- f. If the Ethics Commission attorney determines, after preliminary investigation, that there are no reasonable grounds to believe that a violation has occurred, the Ethics Commission attorney shall dismiss the complaint. If the Ethics Commission attorney dismisses the complaint, he or she shall do so in writing, setting forth the facts and the provisions of law upon which the dismissal is based, and provide copies of the written dismissal to the complainant, to the individual charged with the violation, and to the members of the Ethics Commission. The complainant shall have the right to appeal the decision of the Ethics Commission attorney.
- g. The Ethics Commission attorney shall refer the complaint to the Ethics Commission if, after a preliminary investigation, the Ethics Commission attorney does not:
 1. Ask for additional time to conduct a more extensive investigation pursuant to subsection (c);
 2. Refer the matter to law enforcement pursuant to subsection (d);
 3. Refer the matter to an agency department head or director pursuant to subsection (e), or
 4. Dismiss the complaint pursuant to subsection (f).

Sec. 9.34.320. Same—complaints referred to the Ethics Commission.

- a. When a complaint is referred by the Ethics Commission attorney, the Ethics Commission may, by majority vote:
 1. Reject, without further proceedings, a complaint that the Ethics Commission considers frivolous or inconsequential;
 2. Reject, without further proceedings, a complaint that the Ethics Commission is satisfied has been dealt with appropriately by an official, law enforcement agency or an agency department head or director;
 3. Determine that the complaint does not allege facts sufficient to constitute a violation of this chapter and dismiss the complaint; or
 4. Forward a copy of the complaint to an appropriate official or the department head or director of an agency for action and either stay the Ethics Commission's proceedings pending the other action or dismiss the action without prejudice.
- b. If a complaint is not disposed of under subsection (a):
 1. The Ethics Commission may refer the alleged violation for additional investigation by the Ethics Commission attorney; or
 2. If the Ethics Commission finds by a majority vote that probable cause exists to support an alleged violation, it shall set a public hearing on the matter. The respondent shall be notified within thirty (30) days of the Ethics Commission's determination. The hearing shall take place within sixty (60) days of the respondent being notified of the probable cause determination.
- c. If a hearing is to be held, the respondent shall be afforded appropriate due process protection, including the rights to be represented by counsel, to discovery, to call and examine witnesses, to introduce exhibits, and to cross-examine opposing witnesses.

Sec. 9.34.330. Decision of the Ethics Commission.

- a. After the hearing, if the Ethics Commission finds by a majority vote that the respondent has not violated this chapter, it shall dismiss the charges through a report.

- b. If the Ethics Commission based on a preponderance of the evidence, finds by a majority vote that the respondent has violated this chapter, the Ethics Commission shall issue a report of its findings of fact and conclusions of law, as well as any recommendations for sanctions or penalties to be imposed on the respondent.
- c. The Ethics Commission shall take into account as it determines the appropriate remedy, and specifically address in its report or the agreed settlement, any voluntary remedial action as addressed by Section 9.34.390 by the respondent.
- d. Such report shall be in writing, supported and signed by a majority of the Ethics Commission members, and made public. Such report shall be presented to the respondent, the mayor, and the Common Council. Such report may be presented to the county prosecutor, city attorney, or any other appropriate person.

Sec. 9.34.340. Agreed settlements.

- a. The Ethics Commission may resolve complaints or investigations through agreed settlements with respondents.
- b. In negotiations to settle under this section, the Ethics Commission attorney or a designee of the Ethics Commission ("negotiator") will negotiate on behalf of the Ethics Commission. At an informal conference to negotiate, no record shall be made, and no statement made by any person at such conference shall be used as evidence in any subsequent public hearing or proceeding.
- c. If the respondent and the negotiator concur that such an agreement would be appropriate, they may submit a proposal to the Ethics Commission for its approval or disapproval by majority vote. Such proposal shall be in writing, and may include a recommendation of any sanctions that the respondent has agreed to accept. If the proposal is submitted prior to a vote of the Ethics Commission that probable cause exists to support an alleged violation, the Ethics Commission vote on approval or disapproval of the agreement shall be in executive session unless the respondent has waived confidentiality. If the proposal is submitted after the Ethics Commission has voted that probable cause exists to support an alleged violation, the vote on approval or disapproval of the agreement shall be taken at an open meeting.
- d. If the Ethics Commission disapproves the proposal, the Ethics Commission shall proceed as provided in Section 9.34.320. If the Ethics Commission approves the proposal, the agreement shall be signed by the respondent and by a majority of the Ethics Commission members, shall be open to public inspection as a public record.
- e. In order to be a valid and binding agreement, an agreed settlement shall be approved by the agency department head or director that employs the respondent if any of the terms of the settlement agreement would limit the agency's legal authority or legal discretion to implement disciplinary action against the respondent.

Sec. 9.34.350. Report of action taken by department head or director of an agency.

Whenever a department head or director of an agency receives a report under Section 9.34.330, the department head or director of an agency shall, at the request of the Ethics Commission, report to the Ethics Commission the action taken in response to the report. The Ethics Commission may require in the report that the department head or director of an agency submit the response required by this section in a reasonable, specified amount of time.

Sec. 9.34.360. Unlawful interference with Ethics Commission activities.

- a. It shall be unlawful for an individual to do any of the following:
 - 1. Knowingly or intentionally induce or attempt to induce, by threat, coercion, suggestion, or false statement, a witness or informant in an Ethics Commission proceeding or investigation to do any of the following:

- A. Withhold or unreasonably delay the production of any testimony, information, document, or thing;
 - B. Avoid legal process summoning an individual to testify or supply evidence;
 - C. Fail to appear at a proceeding or investigation to which an individual has been summoned; or
 - D. Make, present, or use a false record, document, or thing with the intent that the record, document, or thing appear in an Ethics Commission proceeding or investigation to mislead a member or employee of the Ethics Commission;
- 2. Alter, damage, or remove a record, document, or thing except as permitted or required by law, with the intent to prevent the record, document, or thing from being produced or used in an Ethics Commission proceeding or investigation conducted pursuant to this chapter; or
 - 3. Make, present, or use a false record, document, or thing with the intent that the record, document, or thing appear in an Ethics Commission proceeding or investigation to mislead a member of the Ethics Commission.
- b. A person, who is not an official, councillor, appointee, or employee, and who violates this section is subject to the penalties provided by Section 9.34.410(b)(2) of this Code.

Sec. 9.34.370. Disclosure requirements – public records.

- a. Except as otherwise required by state or federal law, the following provisions for disclosure shall apply.
 - 1. *Advisory Opinions.* Except as allowed by Section 9.34.190(h), advisory opinions under Section 9.34.190 shall be withheld from disclosure by the office of the city attorney, clerk-treasurer and/or the Ethics Commission, as authorized by IC 5-14-3-4(b).
 - 2. *Investigative Records.* Records pertaining to an investigation by the Ethics Commission or designee of the Ethics Commission, that are not used as evidence against the respondent, may be kept confidential pursuant to IC 5-14-3-4(b).
 - 3. *Complaints.* A complaint that is filed with the Ethics Commission, prior to the Ethics Commission finding probable cause, shall be withheld from disclosure as authorized by IC 5-14-3-4(b). A complaint filed with the Ethics Commission, after the Ethics Commission finds probable cause exists, shall be open for public inspection.
 - 4. *Evidence.* Evidence received at an Ethics Commission hearing, after the Ethics Commission finds that probable cause exists, shall be open for public inspection.
 - 5. *Decision.* Decisions under Section 9.34.330 shall be open for public inspection.
- b. Notwithstanding subsection (a), records may, as otherwise permitted by law, be open for public inspection if the respondent elects to have information disclosed and the Ethics Commission determines it is in the public interest to do so, or if the Ethics Commission in its sole determination finds it is in the public interest to do so.

Sec. 9.34.380. Same – public meetings.

Proceedings of the Ethics Commission shall be held in accordance with IC 5-14-1.5; however, prior to the Ethics Commission finding probable cause, a proceeding shall be held in executive session, pursuant to IC 5-14-1.5-6.1, unless the individual who filed the complaint or a person who is directly affected by the complaint requests a public hearing at least ten (10) days in advance.

ARTICLE IV. VIOLATIONS AND ENFORCEMENT

Sec. 9.34.400. Voluntary remedial actions.

Violations of any provision of this chapter should raise conscientious questions for the official, councilor, appointee, or employee concerned as to whether resignation, compensatory action, or a sincere, public apology is appropriate to promote the best interests of the city and to prevent the costs of an investigation and hearings by the Ethics Commission.

Sec. 9.34.410. Violations and penalties.

- a. In general: Failure to comply with any provision of this chapter shall be a violation of this chapter.
- b. Sanctions and Penalties: Anyone found in violation of this chapter shall be subject to:
 1. Sanctions that may be imposed upon recommendation by the Ethics Commission; and/or
 2. A penalty of up to \$250.00 for each offense; each day that a violation occurs shall be considered a separate offense. A monetary penalty under this Ethics Ordinance shall be subject to the proceedings and collection as set forth under Columbus Municipal Code 2.64, Ordinance Violations Bureau.

Sec. 9.34.420. Whistleblower protection.

- a. A current or former official, councilor, appointee, or employee shall not retaliate or threaten to retaliate against any individual because the individual did, or is expected to do, any of the following:
 1. File a complaint with the Ethics Commission;
 2. Provide information to the Ethics Commission, the Ethics Commission attorney, or the Ethics Commission designee ; or
 3. Testify at an Ethics Commission proceeding.
- b. Any individual taking any of the actions listed in subsection (a)(1-3), shall do so based upon good faith and shall not knowingly or recklessly file a frivolous complaint or provide false information or testimony.

Sec. 9.34.430. Miscellaneous provisions.

- a. The provisions of Section 9.34.090 shall not apply to family members who, on or before July 1, 2012 held positions in the same agency.
- b. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.
- c. In the event that the terms of this chapter are in conflict with any state law or ruling of a state agency, such law, rule, regulations and/or ruling of the state agency shall supersede the terms of this chapter.
- d. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION II. All prior ordinances or parts thereof inconsistent with any provision of this Ordinance are hereby repealed.

SECTION III. The adoption of the Ethics Ordinance shall be in full force and effect from and after its passage and approval as provided by Ind. Code § 36-3-4-14, and starting July 1, 2013. No alleged violations prior to July 1, 2013 shall be considered by the Ethics Commission.

ADOPTED BY THE COMMON COUNCIL OF THE CITY OF COLUMBUS, INDIANA, on this the _____ day of March, 2013, by a vote of _____ ayes and _____ nays.

Kristen Brown, Mayor
Presiding Officer of the Common Council

ATTEST:

Clerk of the Common Council of Columbus, Indiana
Luann Welmer

Presented by me to the Mayor of Columbus, Indiana, this _____ day of March, 2013 at _____ o'clock _____.m.

Luann Welmer
City of Columbus, Clerk-Treasurer

Approved and signed by me this _____ day of March, 2013 at _____ o'clock _____.m.

Kristen Brown
Mayor of the City of Columbus, Indiana



MEMORANDUM

TO: Columbus City Council Members

FROM: Jeff Bergman, AICP
on behalf of the Columbus Plan Commission

DATE: March 25, 2013

RE: RZ-13-03 (*Joel Spoon Rezoning*)

At its March 13, 2013 meeting, the Columbus Plan Commission reviewed the above referenced application and forwarded it to the City Council with a favorable recommendation by a vote of 10 in favor and 0 opposed.

Joel Spoon proposes to rezone the 7.22 acre property on the west side of Terrace Lake Road (south of Mt. Pleasant Court) from single-family residential (RS3) to two-family residential (RT). Joel has indicated that the rezoning is for the purpose of developing a subdivision of approximately 17 single-family homes on lots clustered to one side of the property to avoid the floodplain located on the remainder of the site. The RT zoning district would allow for these smaller, clustered single-family home sites, as well as duplexes, single-family attached homes ("patio homes"), and 0-lot-line homes.

One neighboring property owner spoke at the Plan Commission hearing on this matter to express general concerns about continued development bringing more congestion and traffic to the area.

The following items of information are attached to this memo for your consideration:

1. the proposed ordinance approving the rezoning,
2. the resolution certifying the action of the Plan Commission,
3. a copy of the Plan Commission staff report,
4. a location map, and
5. the proposed subdivision plat for the property provided by the applicant.

Please feel free to contact me if you have any questions regarding this matter.

ORDINANCE NO.: _____, 2013

**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP
OF COLUMBUS, INDIANA, REZONING THE SUBJECT PROPERTY
FROM "RS3" (RESIDENTIAL: SINGLE-FAMILY)
TO "RT" (RESIDENTIAL: TWO-FAMILY)**

**To be known as the: Joel Spoon Rezoning
Plan Commission Case No.: RZ-13-03**

WHEREAS, this rezoning was requested by Joel Spoon and includes the consent of all owners of the subject property; and

WHEREAS, the Columbus Plan Commission did, on March 13, 2013, hold a legally advertised public hearing on said request and has certified a favorable recommendation to the Common Council; and

WHEREAS, the Common Council of the City of Columbus, Indiana has considered the criteria contained in Section 12.6(G) of the Columbus & Bartholomew County Zoning Ordinance.

NOW THEREFORE BE IT ORDAINED by the Common Council of the City of Columbus, Indiana, as follows:

SECTION 1: Official Zoning Map

The zoning classification of the following described real estate, which is in the zoning jurisdiction of the City of Columbus, Indiana, shall be changed from "RS3" (Residential: Single-family) to "RT" (Residential: Two-family):

*Lot 4 in "Martin Ahlbrand Minor Subdivision 2nd Replat" as recorded in Plat Book "R",
Page 287D in the Bartholomew County Recorder's Office.*

SECTION 2: Commitment(s)

No commitments are attached to this rezoning.

SECTION 3: Repealer

All ordinances or parts thereof in conflict with this ordinance shall be repealed to the extent of such conflict.

SECTION 4: Severability

If any provision, or the application of any provision, of this ordinance is held unconstitutional or invalid the remainder of the Ordinance, or the application of such provision to other circumstances, shall be unaffected.

SECTION 5: Effective Date

This ordinance shall be effective upon and after the date and time of its adoption, as provided in Indiana law.

ADOPTED, by the Common Council of the City of Columbus, Indiana, this _____ day of _____, 2013 at _____ o'clock _____.m., by a vote of _____ ayes and _____ nays.

Presiding Officer

ATTEST:

Luann Welmer
Clerk-Treasurer of the City of Columbus, Indiana

Presented to me, the Mayor of Columbus, Indiana, the _____ day of _____, 2013 at _____ o'clock _____.m.

Kristen S. Brown
Mayor of the City of Columbus, Indiana

RESOLUTION: RZ-13-03

of the City of Columbus, Indiana Plan Commission

regarding
Case number RZ-13-03
(Joel Spoon Rezoning),
a proposal to rezone +/-7.22 acres from
RS3 (Residential: Single-family) to RT (Residential: Two-family)

WHEREAS, the Plan Commission has received the application referenced above from Joel Spoon; and

WHEREAS, the applicant(s) represent 100% of the property owners involved in the rezoning request, which meets the requirements of IC 36-7-4-602(c); and

WHEREAS, the Plan Commission did, on March 13, 2013, hold a public hearing consistent with the applicable requirements of Indiana law, the Columbus & Bartholomew County Zoning Ordinance, and the Plan Commission Rules of Procedure; and

WHEREAS, the Plan Commission did pay reasonable regard to the criteria contained in Section 12.6(G) of the Columbus & Bartholomew County Zoning Ordinance; and

WHEREAS, the Plan Commission recognizes that its action on this matter represents a recommendation to the Common Council of the City of Columbus, Indiana, which will be responsible for final action on the request.

NOW THEREFORE BE IT RESOLVED, by the Plan Commission of the City of Columbus, Indiana, as follows:

- 1) The rezoning of the property subject to the application (approximately 7.22 acres located on the west side of Terrace Lake Road, south of Mt. Pleasant Court) is forwarded to the Common Council with a favorable recommendation.
- 2) This resolution shall serve as the certification required for such ordinance amendments (re-zonings) by IC 36-7-4-605.

ADOPTED BY THE COLUMBUS, INDIANA PLAN COMMISSION THIS 13th DAY OF MARCH 2013 BY A VOTE OF 10 IN FAVOR AND 0 OPPOSED.

Signed Copy on File in the Planning Department

Roger Lang, President

ATTEST:

Signed Copy on File in the Planning Department

David L. Hayward, Secretary



STAFF REPORT

CITY OF COLUMBUS PLAN COMMISSION (March 13, 2012 Meeting)

Docket No. / Project Title: RZ-13-03 (Willow Glen)
Staff: Thom Weintraut

Applicant: Joel Spoon
Property Size: 7.22 Acres
Current Zoning: RS3 (Residential: Single-Family 3)
Proposed Zoning: RT (Residential: Two-Family)
Location: The property is located on the east side of Carr Hill Road approximately 1100 feet southwest of the intersection of Terrace Lake Road and Carr Hill Road, in the City of Columbus.

Background Summary:

The applicant has indicated that the proposed rezoning is for the purpose of reducing the square footage of the building lots in order to provide a common area and buffer along the Opossum Creek stream channel. The petitioner has presented a Major Subdivision Preliminary Plat that creates 17 single-family home lots and a common area of 3.19 acres.

Key Issue Summary:

The following key issue(s) should be resolved through the consideration of this application: The RS3 zoning district allows for a gross density of 5 dwelling units per acre for a total of 36 units, while the RT zoning district allows for a gross density of 8 dwelling units per acre for a total of 57 units. Will the increase in density create any issues for this area?

Preliminary Staff Recommendation:

Favorable recommendation to the City Council.

Plan Commission Options:

In reviewing a request for rezoning the Plan Commission may (1) forward a favorable recommendation to the City Council, (2) forward an unfavorable recommendation to the City Council, (3) forward the application to City Council with no recommendation, or (4) continue the review to the next Plan Commission meeting. The Plan Commission may attach conditions to any recommendation which are to become written commitments of the applicant. The City Council makes all final decisions regarding rezoning applications.

Decision Criteria:

Indiana law and the Columbus Zoning Ordinance require that the Plan Commission and City Council pay reasonable regard to the following when considering a rezoning:

The Comprehensive Plan.

Preliminary Staff Comments: The Comprehensive Plan encourages infill development where the City's infrastructure and services have the capacity to accommodate the growth. In addition, the Plan

encourages clustering of residential development to conserve open space and to protected natural features such as river and stream corridors, water quality, and wildlife habitat.

The current conditions and the character of current structures and uses in each district.

Preliminary Staff Comments: The current site proposed for the rezoning contains wooded areas as well as a stream channel. The adjacent property to the east and south of the site are zoned for RS3 Single-Family Residential and the property to the south is currently being developed as Deer Creek Major Subdivision. The adjacent properties to the north and west are wooded with sparse single family residences.

The most desirable use for which the land in each district is adapted.

Preliminary Staff Comments: The site is within the limits of the City of Columbus and is located in an area surrounded by residential development and woodlands. The most desirable use for the land is residential.

The conservation of property values throughout the jurisdiction of the City of Columbus.

Preliminary Staff Comments: The property is currently zoned residential and there are properties in the area that are zoning R-T (Residential: Two-Family). The zoning change will provide additional residential options within the community and therefore should not affect property values.

Responsible growth and development.

Preliminary Staff Comments: The rezoning represents responsible growth and development. The parcel is located within the city limits in an area with adequate infrastructure include access to a collector street. There are commercial services within the area to support the development.

Current Property Information:	
Land Use:	Undeveloped
Site Features:	Woods, field, stream
Flood Hazards:	The property contains Flood Zone AE, 100-year flood zone with floodway/ flood fringe areas delineated and base flood elevations determined.
Special Circumstances: (Airport Hazard Area, Wellfield Protection Area, etc.)	none
Vehicle Access:	The property has access from Carr Hill Road (Collector, Residential, Suburban) and Deer Creek Way (Local, Residential, Suburban).

Surrounding Zoning and Land Use:		
	Zoning:	Land Use:
North:	RS3 (Residential: Single-Family 3) RT (Residential: Two-Family) AP (Agriculture: Preferred)	Single-family residential Storage building for Tipton Lakes Wooded, Undeveloped, and cemetery

South:	RS3 (Residential: Single-Family 3) AP (Agriculture: Preferred) RS2 (Residential: Single-Family 2)	Deer Creek Major Subdivision Single-family residential Single-family residential
East:	RS2 (Residential: Single-Family 2) RS3 (Residential: Single-Family 3)	Undeveloped woods and field Brookfield Place Major Subdivision
West:	RT (Residential: Two-Family) AP (Agriculture: Preferred)	Undeveloped woods Single-family residential

Zoning District Summary (Existing / Proposed):		
	Existing Zoning: RS3	Proposed Zoning: RT
Zoning District Intent:	The intent of the RS3, Single-Family Residential zoning district is to provide areas for moderate to high density single-family residences in an area with compatible infrastructure and services. Development in this zoning district should generally be served by sewer and water utilities. Such development should also provide residents with convenient access to Collector and Arterial streets, parks, and open space, employment, and convenience goods.	The intent of the RT, Two-Family Residential zoning district is to provide areas for moderate density single, two and multi-family residences in areas with compatible infrastructure and services. These residences are most likely arranged as multiple detached units on a single lot or multiple attached units separated by lot lines at a common wall. Development in this zoning district should be served by sewer and water utilities. Such development should also provide residents with convenient access to Collector and Arterial streets, parks, and open space, employment, and convenience goods.
Permitted Uses:	<ul style="list-style-type: none"> • Dwelling, single-family • Nature preserves/conservation area 	<ul style="list-style-type: none"> • Dwelling, single-family • Dwelling, two-family • Nature preserve/conservation area
Water and Sewer Service:	Required	Required
Lot and/or Density Requirements:	<p>Minimum Lot Area: 7,200 sq. ft.</p> <p>Minimum Lot Width: 60 feet</p>	<p>Minimum Lot Area: 3,000 sq. ft. per dwelling unit</p> <p>Minimum Lot Width:</p> <ul style="list-style-type: none"> • Single-Family Structure: 35 feet • Two-Family Structure: 40 feet

Zoning District Summary (Existing / Proposed):		
	Existing Zoning: RS3	Proposed Zoning: RT
Lot and/or Density Requirements: (continued)	Maximum Gross Density: 5 dwelling units per acre.	Maximum Gross Density: 8 dwelling units per acre.
Setbacks Required: Front setbacks are determined by the Thoroughfare Plan Classification of the adjacent street and are the same regardless of zoning.	Side Yard Setback: Primary Structure: 5 feet Accessory Structure: 5 feet Rear Yard Setback: Primary Structure: 5 feet Accessory Structure: 5 feet. Front Yard Setback: Collector Street: 15 feet.* Local Street: 10 feet.* *25 feet for any garage with a vehicle entrance facing the street.	Side Yard Setback: <ul style="list-style-type: none"> • Single-Family Structure: 0 feet minimum per side, 10 feet aggregate.* • Two-Family Structure: 5 feet *the aggregate side setback for single family may be reduced to 0 feet for the center units in multiple attached unit designs. Rear Yard Setback: Residential Structure: 5 feet Accessory Structure: 5 feet. Front Yard Setback: Collector Street: 15 feet.* Local Street: 10 feet.* *25 feet for any garage with a vehicle entrance facing the street.
Height Restrictions:	Primary Structure: 40 feet Accessory Structure: 25 feet (or the height of the primary structure on the property, whichever is less)	Primary Structure: 50 feet. Accessory Structure: 25 feet (or the height of the primary structure on the property, whichever is less)
Floor Area Requirements:	Minimum Living Area per Dwelling: 1000 sq. ft.	Minimum Living Area per Dwelling: Single-Family Structure: 1000 sq. ft. Two-Family Structure: 1000 sq. ft.
Signs:	Two development entry signs at a maximum height of 6 feet and 32 sq. ft. in area are permitted per public street access point.	Two development entry signs at a maximum height of 6 feet and 32 sq. ft. in area are permitted per public street access point.

Interdepartmental Review:	
City Engineering:	No comments received
City Utilities:	No comments received
Parks Department:	No comments received
MPO:	No comments received

History of this Location:

The relevant history of this property includes the following:

1. On May 7, 2008, The Columbus City Council approved RZ-08-05 (Coronado Development Corp) a request to rezone 10.5 acres from AG (Agriculture District) to RS3 Single-Family 3 Residential.
2. On September 2, 2008, PP-08-04 (Terrace Park Major Subdivision Preliminary Plat) was filed. The request was for the creation of a 14 lot subdivision. On December 3, 2008 the Plan Commission granted a request from the petitioner, Coronado Development Corp, to withdraw the subdivision request.
3. On Wednesday, September 12, 2012, Plan Commission approved MI/P-12-04 (Martin Ahlbrand Minor Subdivision 2nd Replat) a request to divide a 10.5 acre lot into two lots; Lot 3 of which contained a dwelling and accessory building, and Lot 4, the 7.22 acre parcel that is the subject of this rezoning request. As part of the approval, Plan Commission granted a modification from Subdivision Control Ordinance Section 16.24.010(B)(1), the requirement to construct sidewalks along the frontages of Terrace Lake and Carr Hill Roads. The approval was subject to the following three conditions:
 - 1) The petitioner shall provide a subdivision improvement agreement and post a financial guarantee in the amount to 125% of the construction costs of the sidewalks.
 - 2) The petitioner shall either have an approved major subdivision final plat or completed the installation of the sidewalks within 1 year of the primary approval of the Martin Ahlbrand Minor Subdivision 2nd Replat (September 12, 2013).
 - 3) The 20 foot agriculture access easement shall be removed from lot 3 and no access placed along the entire Terrace Lake Road Frontage of Lots 3 & 4.
4. The petitioner has filed PP-13-01 (Willow Glen Major Subdivision Preliminary Plat) along with this rezoning request.

Comprehensive Plan Consideration(s):

The Future Land Use Map indicates the future use of this property as Residential.

The following Comprehensive Plan goal(s) and/or policy(ies) apply to this application:

1. **Goal A-4:** Promote wise and efficient use of limited resources and nonrenewable resources, including but not limited to capital and land.
2. **Policy A-4-2:** Encourage infill development, and or use of vacant parcels for projects such as parks and other amenities which complement the neighborhoods in which they are located.
3. **Policy A-4-4:** Encourage residential clustering and other development types that conserve open space and natural resources and reduce infrastructure costs.
Regulations should encourage development which saves trees, wetlands, flood plains, natural topography, and other natural features and development which includes open space. The city's ordinances need to provide flexibility and incentives for developers to use creative subdivision layouts.
4. **Goal B-1:** Maintain excellent water, air, land quality and protect the natural environment.
5. **Policy B-1-1:** Protect floodway areas from development to prevent runoff which could pollute streams and rivers.

6. **Goal B-2:** Enhance open space to create sustainable recreational environments and wildlife environments and wildlife habitats.
7. **Policy B-3-4:** Encourage green space preservation, particularly trees, in all new development.
8. **Policy B-4-1:** Encourage creative subdivision design which avoids placement of houses in the floodway fringe.

This property is located in the Western Hills character area. The following Planning Principle(s) apply to this application: Ensure that new development takes place in a manner that preserves natural features such as topography and wooded area. Clustering should be encouraged.

Planning Consideration(s):

The following general site considerations, planning concepts, and other facts should be considered in the review of this application:

1. The property is located adjacent to residential developments and the zoning in the area is a mixture of medium for higher density residential.
2. The area surrounding the property is a mixture of hills, wooded parcels, and residential developments that have been sensitive to natural features onsite, such as trees and woodlands.
3. The property is currently zoned RS3, Single-Family Residential, which would allow a density of 5 dwelling unit per acre for a total of 36 units. The requested zoning is RT, Two-Family Residential, which would allow 8 dwelling units per acre for a total of 57 units.
4. The property has access to Carr Hill Road which is a collector street. The role of a collector street is to connect local streets with arterial streets and therefore provide connections between neighborhoods and commercial service areas. Collectors provide both mobility and access and are designed to carry up to 8,000 vehicles a day.
5. Higher density development allows for smaller lots sizes and therefore there may be more reliance on public parks for recreation. The nearest park is Harrison Ridge Park which is a half of a mile north of the property via Coles Drive. The park contains basketball and tennis courts as well as other recreation equipment.
6. Higher density development should be located in areas with availability to community services, one of which is public transit. There is no transit service available west of downtown.
7. The applicant has indicated that this request for the RT, Two-Family Residential is for the purpose to allow the developer to create small lots in order to preserve the floodplain areas on the site. The developer is proposing only 17 building lots, which is fewer than the number allowed under the current RS3 zoning or the proposed RT zoning.
8. The property contains both floodway and flood fringe area in the amount of approximately 1.3 acres. The Section 4.7 of the Zoning Ordinance restricts development in a floodway, but allows development to take place in the flood fringe. The major subdivision preliminary plat the developer has file PP-13-01 (Willow Glen Major Subdivision Preliminary Plat) shows the lots being located outside of the floodplain. The Columbus Comprehensive Plan Goal B-1 and Policies B-1-1 and B-4-1 encourage protecting the environment, particularly water quality and floodplains from the effects of development.

Site Location & Surrounding Zoning



WILLOW GLEN
MAJOR SUBDIVISION
(PRELIMINARY PLAT)

